Inquiry into objection.

If within the time specified any objection is preferred, the Magistrate of the district shall inquire into the objection, and pass such order as may appear proper under the circumstances of the case.

5. [*Markets and fairs established prior to passing of Acts.*] *Rep. Act XII of 1876.*

Appeal.

6. Every order passed by a [1][District Magistrate] under [2][section 4] shall, within six weeks, be open to appeal to the Commissioner [3]* * and the order of the Commissioner shall be final.

Penalty for contravening, disobeying, or opposing order.

7. Every person who shall contravene, disobey, or oppose any order duly made under this Act, shall be liable to a fine not exceeding two hundred rupees, or, in default of payment, to imprisonment [4]* * * * for any period not exceeding two [4]* * months.

Extent.

8. This Act shall not extend to the Islands of Bombay and Colába.

Exemption of religious assemblages.

9. Nothing in this Act shall be held to apply to assemblages of people collected at, or concerned in, the inauguration of sacred edifices, or collected at, or concerned in, any other religious festivals or ceremonies not forming part of a fair or market.

Saving of general powers of Government.

10. Nothing in this Act shall be held to restrict the general powers of Government to control the order of the [1][District Magistrate] or Commissioner [3]* * in regard to markets or fairs.

11. [*Meaning of "Magistrate".*] *Rep. Bom. Act III of 1886.*

BOMBAY ACT No. V OF 1862.[5]

[THE BHÁGDÁRÍ AND NARWÁDÁRÍ ACT, 1862.][5]

[*24th April, 1862.*]

An Act for the preservation of the Bhágdárí and Narwádárí Tenures.

Preamble.

WHEREAS it has been found that the permanence of the tenures known as the bhágdárí and narwádárí tenures, which have existed from time

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[1] These words were substituted for the word "Magistrate" by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The word and figure "Section 4" were substituted for the words "this Act" by *ibid.*

[3] The words "of Police" were repealed by *ibid.*

[4] The words "of either kind" and the word "calendar" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), *infra.*

[5] No Statement of Objects and Reasons was published. For the Bill, as introduced, *see* Bombay Government Gazette, 1862, Supplement, p. 51; for Report of the Select Committee, *see ibid*, p. 79, and for Proceedings in Council, *see ibid*, pp. 50, 79 and 97.

The short title was given by the Bombay Short Titles Act, 1921 (Bom. Act 2 of 1921), Vol. V of this Code.

Bom. Act 5 of 1862 has been declared not to be in force in the Pánch Maháls—*see* the Pánch Mahál Laws Act, 1885 (7 of 1885), s. 2, Vol. I of this Code.

immemorial in certain parts of the Presidency of Bombay, is endangered by the increasing practice of attachment and sale by civil process of the homesteads and building-sites ("gabhán") appertaining or appendant to the constituted bhágs or the recognized sub-divisions of such bhágs or shares, in bhágdárí or narwádárí villages;

and whereas it is desirable to prevent the alienation, assignment, mortgaging, charging or incumbering of any portion of any bhág or share in any bhágdárí or narwádárí village other than a recognized sub-division of such bhág or share, or the alienation, assignment, mortgaging, charging or incumbering of any homestead, building-site (gabhán), or premises appurtenant or appendant to any such bhág or share, or recognized sub-division separately or apart from such bhág or share or recognized sub-division;

[1][and whereas it is desirable to provide for the restoration of the bhágdárí and narwádárí tenures in cases where such tenures have ceased to exist;]

It is therefore enacted as follows:—

No portion of bhág in bhágdárí or narwádárí village to be liable to seizure, etc. by process of Civil Court.

1. No portion of a bhág or share in any bhágdárí or narwádárí village other than a recognized sub-division of such bhág or share shall [2]* * * * be liable to seizure, sequestration, attachment or sale by the process of any Civil Court, and no process of such Court shall be enforced so as to cause the dismemberment from any such bhág or share or recognized sub-division thereof, of any homestead, building-site (gabhán) or premises appurtenant or appendant to such bhág or share, or recognized sub-division thereof.

On issue of such process, Collector may move that it be set aside or quashed.

2. Whenever any process has issued out of any Civil Court for the seizure, sequestration, attachment or sale of any portion of a bhág or share in any bhágdárí or narwádárí village other than a recognized sub-division of such bhág or share, or for the seizure, sequestration, attachment or sale of any homestead, building-site (gabhán) or premises appurtenant or appendant to such bhág or share, or recognized sub-division thereof, it shall be lawful for the Collector or other chief revenue-officer of the district in which any such bhágdárí or narwádárí village is situated, although not a litigating party, to move in such Civil Court, that such process shall be set aside or quashed, and that the provisions of this Act be put in force;

Court to set aside process if case fall within Act.

and if such Court be of opinion, on the evidence adduced by the Collector or other chief revenue-officer of the district on such motion, that the case is one falling within this Act, it shall set aside or quash

[1] These words were added by s. 2 of the Bhágdárí and Narwádárí Tenures Act, 1910 (Bom. Act 2 of 1910), Vol. V of this Code.

[2] The words "from and after the passing of this Act" were repealed by the Repealing Act, 1873 (12 of 1873).

such process, and cause the provisions of this Act to be put in force; [1]* * * * * any order which the said Court may make on such motion shall be appealable in the same manner as a decree of the Court in which it is made.

Bar to alienation, etc., of any portion of bhág in bhágdárí or narwádárí village other than recognized sub-division thereof.

3. It shall not be lawful to alienate, assign, mortgage or otherwise charge or incumber any portion of any bhág or share in any bhágdárí or narwádárí village other than a recognized sub-division of such bhág or share, or to alienate, assign, mortgage or otherwise charge or incumber any homestead, building-site (gabhán) or premises appurtenant or appendant to any such bhág or share or recognized sub-division, appurtenant or appendant thereto, apart or separately from any such bhág or share, or recognized sub-division thereof.

Power to remove person in possession of portion of such bhág.

Any alienation, assignment, mortgage, charge or incumbrance, contrary to the provisions of this section, shall be null and void; and it shall be lawful for the Collector or other chief revenue-officer of the district, whenever he shall, upon due inquiry, find that any person or persons is or are in possession of any portion of any bhág or share of any homestead, building-site (gabhán) or premises appurtenant or appendant to such bhág or share in any bhágdárí or narwádárí village other than a recognized sub-division of such bhág or share, in violation of any of the provisions of this section, summarily to remove him or them from such possession, and to restore the possession to the person or persons whom the Collector shall deem to be entitled thereto;

Limitation of suit on Collector's order.

and any suit brought to try the validity of any order or orders which the Collector may make in such matter must be brought within three [2]* months after the execution of such order or orders.

Issue and execution of process in other respects authorised by law not barred.

4. [3]* * * * * * Nothing in this Act contained shall be construed as prohibiting the issue and execution of any such process as aforesaid against any bhág or share, or recognized sub-division of any bhág or share, in any such village as aforesaid, conjointly and in the gross with its homestead, building-site (gabhán) and other proper appurtenances, if the issue and execution of such process be in other respects authorized by law.

Alienation, etc., of bhág or share, as aforesaid, if in other respects warranted by law, not barred.

5. [3]* * * * Nothing in this Act contained shall be construed as prohibiting the alienation, assignment, mortgaging, charging or incumbering any bhág or share, or recognized sub-division of any bhág or share, in any such village as aforesaid, conjointly and in the gross with its homestead, building-site (gabhán) and other proper appurtenances,

[1] The words " and it is hereby further enacted that " were repealed by the Repealing Act, 1876 (12 of 1876).

[2] The word " calendar " was repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[3] The words in ss. 4 and 5, " And it is hereby further declared, that " were repealed by the Repealing Act, 1873 (12 of 1873).

if such alienation, assignment, mortgage, charge or incumbrance be in other respects warranted by law, the object and intention of this Act being to prevent the dismemberment of bhágs or shares, or recognized sub-divisions thereof, in bhágdárí or narwádárí villages and also to prevent the severance of homesteads, building-sites (gabhán) or other premises, appurtenant or appendant to bhágs or shares, or recognized sub-divisions of bhágs or shares, from the same or any of them.

[1][**6.** (*1*) Where any land held on the bhágdárí or narwádárí tenure has, either before or after the commencement of the Bhágdárí and Narwádárí Tenures Act, 1910, ceased to be held on such tenure, the Governor in Council may declare that such land shall from a specified date again be held on the bhágdárí or narwádárí tenure, and where such declaration has been made the provisions of this Act shall apply to such land from the date specified in such declaration:

Bom. Act II of 1910.

Provided that, where a declaration has been made under this section in respect of any land, the provisions contained in section 1, 2, or 3 shall not apply in respect of any alienation, assignment, mortgage, charge or encumbrance effected within any period during which such land has ceased to be held on the bhágdárí or narwádárí tenure.

(*2*) The declaration referred to in sub-section (*1*) shall be made by notification in the Bombay Government Gazette and notice of the intention of Government to make such declaration on a specified date shall be published in the Bombay Government Gazette and in the village in which the land is situated at least two months before such declaration is notified and any suggestions and objections submitted to Government by any persons interested not later than one week before the date so specified shall be duly considered by Government.]

THE AHMEDABAD TALUQDARS ACT, 1862.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Power to make declaration vesting management of estates of táluqdár in officer appointed by Government.

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[1] Section 6 was added by s. 3 of the Bhágdárí and Narwádárí Tenures Act, 1910 (Bom. Act 2 of 1910), Vol. V of this Code.